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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,195	10/05/2005	Osamu Watanabe	3712174-00490	7320
29175	7590	03/31/2010		
K&L Gates LLP P. O. BOX 1135 CHICAGO, IL 60690			EXAMINER INGVOLDSTAD, BENNETT	
			ART UNIT 2427	PAPER NUMBER
			NOTIFICATION DATE 03/31/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

# Office Action Summary

**Application No.**

10/550,195

**Applicant(s)**

WATANABE ET AL.

**Examiner**

Bennett Ingvaldstad

**Art Unit**

2427

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 January 2010.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-38 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 22-38 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/22)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 15 January 2010 have been fully considered, but they are moot in view of the new interpretation of the Sciammarella '848 reference to meet the amended claims.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 30, 35, and 36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.** Claim 30 sets forth a "computer readable storage medium storing instructions...." However, the specification as originally filed does not explicitly define the computer readable storage medium; rather, the specification only gives examples of a storage medium (e.g., "a CD, an FD, or an MO," see pg. 12, second full paragraph). The United States Patent and Trademark Office (USPTO) is obliged to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. See *In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). The broadest reasonable interpretation of a claim drawn to a computer readable storage media (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals per se in view of the

ordinary and customary meaning of computer readable media, particularly when the specification is absent an explicit definition or is silent. See MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal per se, the claim must be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. See In re Nuijten, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101, Aug. 24, 2009; p. 2.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 22-30, 37, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sciammarella '848 (US 2002/0033848) in view of Hayashi (US 2002/0054157).**

Claim 22: Sciammarella discloses a display processing apparatus comprising a display device, an input device, a processor, and a memory (Fig. 5) for performing a process for displaying content information that is classified into genres (displaying information about data files in audio or image genre, Abstract), the display processing apparatus comprising:

configuring content cards recording content information in association with content items (thumbnail cards record content information 26 comprising file name, size, and date information, Fig. 4); and

displaying a card group including a plurality of said content cards configured in associated with content items as a card group that indicates only the presence of content with the content information being hidden (the content information for each thumbnail is only visible for the selected thumbnail 25', fig. 4), and

displaying a content card selected by a user-operable selection indicator in a portion adjacent to the card group with the content information being displayed (the selected thumbnail 25' with content information 26, fig. 4); and

wherein the content information is continuously displayed according to a user selection operation (focus outline continuously displays the selected thumbnail, para. 0050, along with content information, fig. 4); and

moving the content cards along a content card movement curve (a helix, fig.4), said content curve being defined by control points (see points in X-Y plane at fig. 22).

wherein in response to movement of the selection indicator;

each of said second plurality of control points are moved along with the movement of the user-operable selection indicator (the radius reduces in response to the selection indicator, thus changing the location of the control points on the X-Y plane, para. 0081; fig. 22).

In the above-described embodiment of Sciammarella, there is only a single fixed control point (see  $x\_cent$ ,  $y\_cent$  at para. 0107) rather than a plurality of fixed control

points. However, Sciammarella contemplates other shapes using a plurality of control points (see paras. 0103-0105, referring to fixed points  $x\_circle1$ ,  $y\_circle1$  and  $x\_circle2$ ,  $y\_circle2$ ). Thus the use of a plurality of fixed control points was known and would have been obvious with the above-described embodiment of Sciammarella in order to display various shapes.

Further in a separate embodiment, Sciammarella discloses:

displaying genres corresponding to displayed content information; and

displaying the genre of the selected content information (genre bar along bottom edge of the screen, fig. 31, "Images" near the top right corner to indicate the selected genre, fig. 31).

It would have been obvious to have combined the display embodiments for the purpose of allowing the user to more easily select the genre of content for display and to see the currently displayed genre while using the curve display methods.

Sciammarella displays a plurality of cards, but does not teach that all of the cards are displayed simultaneously. Hayashi teaches a similar user interface for displaying cards wherein all of the cards may be displayed simultaneously (see Figs. 7-9 and para. 0164).

It is obvious to combine known elements according to known methods to yield predictable results. Therefore, it would have been obvious to have combined the user interface of Sciammarella with the small number of data cards of Hayashi according to the described methods of displaying the cards and for the predictable result of displaying all of the cards on the screen at the same time.

Claim 23, depending on claim 22: Sciammarella further discloses determining the manner in which each of the content cards is displayed depending on the relative position of the selection indicator in the card group (the thumbnails are scaled based on their placement within the sequence of thumbnails in relation to the selected thumbnail, fig. 4, para. 0057).

Claim 24, depending on claim 22: Sciammarella further discloses:

a) a content card at a position close to the selection indicator is set to an angle at which the content information is displayed (a content card 25' within, i.e. "close to", the selection indicator 24 displays content information 26, fig. 4); and

b) a content card at a position far from the selection indicator is set to an angle at which the content information is hidden (other cards not within the selection indicator do not display content information 26, fig. 4).

Claim 25, depending on claim 22: Sciammarella further discloses displaying a content item selected by the selection indicator at a position on the parametric curve apart from the card group with the content information being displayed (see fig. 19; para. 0088; displaying the card group "closer" to the user than the card group by enlarging it).

Claim 26: Sciammarella teaches a display processing method corresponding to the apparatus of claim 22, the instant claim being met as discussed above.

Claim 27–29 correspond to claims 23–25 respectively and are met as such.

Claim 30: Sciammarella teaches a computer readable medium encoding a computer program for implementing the above methods.

Claim 37. Sciammarella further teaches wherein said first plurality of control points includes a first and second control point (see paras. 0103-0105, referring to fixed points  $x\_circle1$ ,  $y\_circle1$  and  $x\_circle2$ ,  $y\_circle2$ ).

Claim 38. Sciammarella further teaches wherein the selection indicator is displayed between the first and second control point (see Fig. 21, noting that the selection indicator is displayed between the centers of the two circles as illustrated at Fig. 19).

**Claims 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sciammarella '848 (US 2002/0033848) in view of Hayashi (US 2002/0054157) and Sciammarella '940 (US 6281940).**

Claims 31, 33, and 35: Sciammarella '848 does not further disclose wherein the genre is based on an electronic program guide.

Sciammarella '940 discloses a graphical user interface that is similar to the '848 reference's GUI. The '848 GUI is used to preview image and audio files, '848 Abstract, whereas the '940 GUI is used to preview broadcast media programs, '940 Abstract. The '940 GUI is an electronic program guide, Figs. 4 and 7a-c, by virtue of comprising selectable broadcast media channels.

It would have been obvious to have modified the '848 reference's GUI to have been an EPG, the genres being selectable via the EPG and "based on" an EPG, for the purpose of previewing and displaying additional types of media such as broadcast media for selection, '940 col. 1, lls. 17-19.



Claims 32, 34, and 36: Sciammarella '848 does not further disclose wherein the genres include news and drama.

Sciammarella '940 discloses that genres such as movies or news, col. 6, lls. 19-28, may include subgenres such as drama, col. 2, lls. 27-32.

Therefore it would have been obvious to modify the genres of Sciammarella '848 (e.g. movies, '848 fig. 31) to comprise the "news" genre and subgenres such as drama, for the purpose of further categorizing broadcast programs, allowing easier selection of a desired type of program.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bennett Ingvaldstad whose telephone number is (571) 270-3431. The examiner can normally be reached on M–F 9–5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bennett Ingvaldstad/  
Examiner, Art Unit 2427

/Scott Beliveau/  
Supervisory Patent Examiner, Art Unit 2427